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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,703	06/22/2006	Anthony Morel	BWAC-30542	9744
27883	7590	07/27/2011		
GRADY K. BERGEN 3333 LEE PARKWAY SUITE 600 DALLAS, TX 75219			EXAMINER MCCORMICK, GABRIELLE A	
			ART UNIT 3629	PAPER NUMBER
			NOTIFICATION DATE 07/27/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/596,703	<b>Applicant(s)</b> MOREL, ANTHONY	
	<b>Examiner</b> GABRIELLE MCCORMICK	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-24 and 26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-24 is/are allowed.
- 6) ☒ Claim(s) 17-20 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Drafts, Person's Patent Drawing, Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/20/2011</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Status of Claims*

1. This action is in reply to the amendment filed on June 20, 2011.
2. Claims 17 and 21 have been amended.
3. Claims 17-24 and 26 are currently pending and have been examined.

### *Information Disclosure Statement*

4. The Information Disclosure Statement filed on June 20, 2011 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### *Previous Objection to the Drawings*

5. The Examiner thanks the Applicant for the amended Figure 1 that was filed on June 20, 2011. The replacement drawing is entered and the objection is withdrawn.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
8. Claim 26 recites "**a content-alert data processor machine provided as part of the broadcast data receiver** for obtaining an alert characteristic from the information characteristic, and

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determining a comprehensive alert level based on parameters of the alert characteristic and weighting the feedback information by the comprehensive alert level”.

9. Fig. 2 discloses the system, however, the “Information receiving means” (understood as the claimed “broadcast receiver”) is not disclosed as providing a data processor machine. Nor is the alert characteristic obtained from the broadcast receiving means. Fig. 2 and 5 show an alert processing means that is connected directly and indirectly to the Information receiving means. The specification from page 6-7 only provides support for various “means” however, the structure of the “means” is not clear and therefore cannot be understood to be as specific as comprising a content-alert data processor machine. The disclosure at pg. 6 regarding the information receiving means in the context of receiving broadcast and television information is understood to comprise a broadcast data receiver.
10. Applicant argues that the Examiner is “improperly placing an onerous burden upon Applicant that is not required under 35 U.S.C. §112, first paragraph...Referring to paragraph 0023 of the specification, for instance, the description therein shows that that the apparatus is a broadcast data receiver. It is known in the art to provide broadcast data receivers with storage means (flash memory, hard disks, etc.) and microprocessors to process the received information and therefore the skilled person would have no difficulty in identifying the equivalent components addressed under the “means” language used in the description. Specific support for the arrangement of the content alert data processor can be found, for instance, in Figure 5 and supporting paragraphs 0062-0066 of the specification.”
11. Paragraph [0023] recites:
12. The information receiving means **160** is used for receiving information from outside, the information comes from broadcast, television station or Internet, etc., for example, a digital television electronic program guide. The information comprises specific information characteristics consisting of content characteristics and program specific information. The program specific information can be the key words in the program synopsis.
13. Although Applicant states “It is known in the art to provide broadcast data receivers with storage means (flash memory, hard disks, etc.) and microprocessors to process the received information

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and therefore the skilled person would have no difficulty in identifying the equivalent components addressed under the "means" language used in the description", whether something is well-known does not provided adequate support for the inventor having had such knowledge at the time of invention. As discussed above, Fig. 2 and 5 show a processing means connected to the information receiving means, thus the processing means is not provided **as part of** the information receiving means and therefore Applicant's statement of the composition of broadcast data receivers is irrelevant.

14. The Examiner maintains that the specification does not provide support for interpreting the means to be as specific as comprising a content-alert data processor machine.
15. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
16. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
17. Claim 17 recites updating said user profile according to **the weighted feedback information**. This phrase lacks proper antecedent basis as claim 17 does not recite the obtaining or weighting of feedback information. For example, claim 21 recites obtaining feedback information and "weighting the feedback information by the comprehensive alert level" prior to updating the user profile.

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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14. **Claims 17-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (US Pat. No. 6,029,195) in view of Linden et al. (US Pat. No. 6,266,649, hereinafter referred to as "Linden").
15. **Claim 17:** Herz discloses the system components (Fig. 2) for:
- Receiving content information including a particular information characteristic (C4; L51-53: target object profile with attributes)
  - Matching said content information with a user profile to obtain a comprehensive degree of interest (C19; L29-31)
  - Obtaining an alert characteristic and determining a comprehensive alert level based on parameters of the alert characteristic (C13; L19-23: numeric evaluations from MPAA is alert characteristic; C10; L58-60: alert level is determined ("0=G, 1=PG,..."))
  - Weighting by the comprehensive alert level (C22; L15-44: each attribute is weighted to specify importance; user assigns a "vulgarity score")
  - Recommending corresponding information to the user according to the weighted comprehensive degree of interest. (C7; L8-18 and C22; L29-44)
  - Updating a user profile based on feedback information. (C7; L63-C8; L3).
16. In Herz, the weighting is performed as part of the generation of the comprehensive degree of interest.
17. Linden discloses that a similar items lists (i.e., a list of potentially recommendable objects) is weighted by multiplying the commonality index value by a weighting value to produce "scores". The list is then filtered to remove unwanted items based on a content rating (such as PG or adult). (C11; L16-37). Thus, Linden discloses the step of weighting after a first calculation is made based on the content of the objects.
18. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included weighting objects after performing a first calculation, as disclosed by Linden in the system disclosed by Herz, for the motivation of providing a method of enabling filtering based on the weighted "vulgarity score" disclosed by Herz.

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- 19. Claims 18, 19 and 20:** Herz discloses particular program information and keywords (C11; L8-26) and alert characteristics including age (C10; L60) and vulgarity (C22; L40-44).

### ***Allowable Subject Matter***

- 20.** Claims 21-24 are allowed.
- 21.** The following is a statement of reasons for the indication of allowable subject matter: Herz (US Pat. No. 6,029,195) discloses matching content information with a user profile to determine a level of interest, determining an alert level, weighting and recommending content based on a weighted degree of interest. Linden et al. (US Pat. No. 6,266,649) discloses weighting after a first calculation is made based on the content of the objects. Thomas (US Pub. No. 2003/0093580) discloses that profiles can be edited and updated by the system based on the viewing habits of the user (i.e., user feedback information and processing a matched result according to the comprehensive alarm level. Herz, Linden and Thomas, either singly or in combination, do not disclose weighting feedback of content information by the alert level and then updating the user profile according to the weighted feedback information. Therefore, a method of weighting feedback of content information by the alert level and then updating the user profile according to the weighted feedback information is not anticipated nor rendered obvious over the prior art of record.
- 22.** The specification, at pages 19-20, discloses the methodology for weighting feedback and updating the profile.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

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of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GABRIELLE MCCORMICK whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jamisue Plucinski can be reached on (571) 272-6811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gabrielle McCormick/  
Primary Examiner, Art Unit 3629